

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MARK MOLLOY,

Plaintiff,

v.

GRAND RIVER NAVIGATION  
COMPANY, INC.,

Defendant.

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CIVIL ACTION NO. 06-13965

DISTRICT JUDGE SEAN F. COX

MAGISTRATE JUDGE DONALD A. SCHEER

**ORDER GRANTING IN PART PLAINTIFF'S  
MOTION TO COMPEL AND/OR IN THE  
ALTERNATIVE FOR AN IN CAMERA REVIEW  
OF FELLOW CREWMEMBER'S PERSONNEL FILE**

This matter is before the court on Order of Reference for determination of Plaintiff's Motion to Compel and/or in the Alternative For In Camera Review of Fellow Crewmember's Personnel File. A hearing was scheduled on the Motion for August 9, 2007. Prior to the hearing, however, the parties stipulated to an *in camera* review by the magistrate judge of the personnel file of Harry Guenterberg. Having examined Plaintiff's Motion, together with Defendant's Response, and having reviewed *in camera* a 28 page facsimile transmission from Defendant's counsel containing "the complete personnel file of Harry Guenterberg," I find that the following described portions of such record should be produced to counsel for Plaintiff:

- a) Page 5 of the facsimile transmission containing a January 3, 2007 annual evaluation of Guenterberg's performance during the 2006 shipping season;

- b) Page 7 of the facsimile transmission containing an October 11, 2005 letter to Guenterberg from Sam Bomyea, Assistant Personnel Manager of Defendant Grand River Navigation Company, Inc., regarding disciplinary action;
- c) Pages 8-9 of the facsimile transmission containing an evaluation of Guenterberg's work performance during the 2004 shipping season;
- d) Page 12 of the facsimile transmission containing a May 25, 2004 letter from Sam Bomyea to Guenterberg regarding conduct relating to Guenterberg's employment; and
- e) Page 13 of the facsimile transmission containing a September 22, 2004 memorandum from Sam Bomyea and commenting, in part, upon Guenterberg's work performance;
- f) Page 23 of the facsimile transmission containing a November 24, 2002 evaluation of Guenterberg during his probationary employment period.

The balance of the facsimile transmission consisted of general administrative documents wholly unrelated to Guenterberg's work related conduct or aptitudes. Specifically, the transmission contained no evaluative report of Guenterberg's work performance during the 2003 or 2005 shipping seasons. The personnel file contained no reports relating to accidental injury to Guenterberg or any other person.

IT IS THEREFORE ORDERED that Defendant shall produce to counsel for Plaintiff Pages 5, 7, 8, 9, 12, 13 and 23 of the facsimile transmission, within 7 days of the date of this Order. If Mr. Guenterberg is no longer employed by Defendant, counsel for Defendant

is further directed to provide Mr. Guenterberg's last known address to counsel for Plaintiff within 7 days of the date of this Order.

s/Donald A. Scheer  
DONALD A. SCHEER  
UNITED STATES MAGISTRATE JUDGE

DATED: August 10, 2007

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**CERTIFICATE OF SERVICE**

I hereby certify on August 10, 2007 that I electronically filed the foregoing paper with the Clerk of the Court sending notification of such filing to all counsel registered electronically. I hereby certify that a copy of this paper was mailed to the following non-registered ECF participants on August 10, 2007. **None.**

s/Michael E. Lang  
Deputy Clerk to  
Magistrate Judge Donald A. Scheer  
(313) 234-5217